

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Christoph BENDER

Application No.: 10/658,404

Filing Date: 10 September 2003

For: Production System for the Manufacture of
Products

Art Unit: 2125

Examiner: Jarrett, Ryan A.

Attorney Ref. No.: 003-077

Via Fax: 703.746.4000

**PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF
ABANDONMENT: PTO ERROR****Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant acknowledges receipt of a Notice of Abandonment dated 10 January 2005 for the above-captioned patent application, for allegedly failing to pay the issue fee due in the application. Because Applicant timely paid the issue and publication fees for this application, the Notice is in error. Applicant therefore respectfully requests withdrawal of the Notice in this application and prompt passage of this application to issue.

As this Petition has been necessitated by an error by the U.S. Patent and Trademark Office, it is believed that no fee is due. M.P.E.P. § 711.03(c) I. If, however, a fee is due, the Director is hereby authorized to charge said fee to Deposit Account No. 50-2821.

On 18 August 2004, Notices of Allowability and Allowance were issued in this application, setting a three-month statutory period for payment of the issue and publication fees; that due date was not extendible. On 15 November 2004, Applicant timely filed the following documents via telefacsimile (copies enclosed):

- (1) Facsimile Certification cover sheet (1 pg)
- (2) PTOL-85 - Part B - Fee(s) Transmittal (1 pg)
- (3) PTO-2038 (1 pg)
- (4) Comments on Examiner's Statement of Reasons for Allowance (2 pp)
- (5) Request for Corrected Notice of Allowability (3 pp)
- (6) PTO-1449 (1 pg)

**TELEFACSIMILE TRANSMISSION****to****THE UNITED STATES PATENT AND TRADEMARK OFFICE**

TO:	Mail Stop ISSUE FEE	FROM:	ADAM J. CERMAK Cermak & Kenealy LLP
FAX:	703.746.4000	REF. NO:	003-077
VOICE:		PAGES	15 (incl. this sheet)
App. No.:	10/658,404	DATE:	19 January 2005

The undersigned hereby certifies that the following document(s) is (are) being transmitted by telefacsimile to the United States Patent and Trademark Office at the above "FAX" number, on the above DATE:

- 1) This facsimile Certification cover sheet (1 pg)
- 2) Petition under 37 C.F.R. § 1.181 to Withdraw Holding of Abandonment (3 pp)
- 3) Copy of 15 November 2004 facsimile Certification cover sheet (1 pg)
- 4) Copy of 15 November 2004 PTOL-85 - Part B - Fee(s) Transmittal (1 pg)
- 5) Copy of 15 November 2004 PTO-2038 (1 pg)
- 6) Copy of 15 November 2004 Comments on Examiner's Statement of Reasons for Allowance (2 pp)
- 7) Copy of 15 November 2004 Request for Corrected Notice of Allowability (3 pp)
- 8) Copy of 15 November 2004 PTO-1449 (1 pg)
- 9) Copy of 15 November 2004 Transmission Verification Report (1 pg)
- 10) Copy of 15 November 2004 Auto-Reply Facsimile Transmission (1 pg)

Adam J. Cermak
Registration Number 40,391

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Att'y Ref. No. 003-077

U.S. App. No.: 10/658,404

The undersigned also encloses copies of two receipts for the 15 November transmission: (1) a "Transmission Verification Report", generated by the fax machine used to make the 15 November transmission; and (2) an "Auto-Reply Facsimile Transmission" received by the fax machine used to make the 15 November transmission, from the "uspto Fax Server". The first receipt plainly lists, over the signature of the undersigned and below the certification required in 37 C.F.R. §§ 1.6(d), 1.8, all of the items listed above. *See* M.P.E.P. § 512 I (authorizing a single certification and list of the documents transmitted, on a fax cover sheet). The second receipt plainly includes a 50% reduced image of the facsimile certification cover sheet listed above. Both receipts confirm that the PTO received all nine (9) pages of the 15 November transmission, including the PTOL-85 and the PTO-2038.

Applicant also notes that the PAIRs record for this application indicates an item on 15 November 2004 "Issue Fee Payment Recorded", but inexplicably also includes an item on the same day "Reverse Issue Fee". The undersigned has contacted the bank that issued the credit account identified in the PTO-2038, and that bank has confirmed that no charge to that credit account was declined on 15 November 2004.

Applicant also notes that the Image File Wrapper for this application does not include any of the documents transmitted on 15 November 2004.

Based on all of the foregoing, Applicant respectfully submits that the issue and publication fees were timely paid, and that the Notice is in error. Applicant respectfully requests that the holding of abandonment be withdrawn, the issue and publication fees be charged to the credit account identified in the attached PTO-2038, the other documents properly placed in the application file and properly processed, and the application passed to issue.

[Page 2 of 3]

Att'y Ref. No. 003-077

U.S. App. No.: 10/658,404

If additional fees are necessary to prevent abandonment of this application, then the Commissioner is authorized to charge my Deposit Account No. 50-2821.

Respectfully submitted,

By: 

Adam J. Cermak
Registration No. 40,391

U.S. P.T.O. Customer Number 36844
Cermak & Kenealy LLP
P.O. Box 7518
Alexandria, Virginia 22307

703.768.0994 (v)
703.652.5101 (f)

Date: 19 January 2005

[Page 3 of 3]



Auto-Reply Facsimile Transmission

TO:

Fax Sender at 1 703 768 0994

Fax Information

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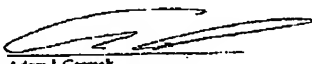
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11/15/2004 09:59 1-703-768-0994		CERMAK KENEALY LLP		PAGE 01/09	
TELEFACSIMILE TRANSMISSION to THE UNITED STATES PATENT AND TRADEMARK OFFICE					
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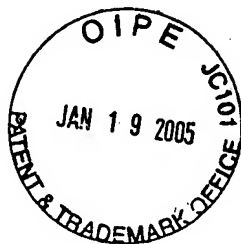
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- 6) PTO-1449 (1 pg)


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